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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2009-170

13 **HEATHER JOY JACKSON, aka**

14 **HEATHER JACKSON,**

15 **HEATHER ORTNER**

16 **HEATHER MILLER**

400 Davey Glen Road, Unit 4804

Belmont, California 94002

17 Registered Nurse License No. RN #560519

18 Respondent.

A C C U S A T I O N

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.

24 **License History**

25 2. On or about October 19, 1999, the Board issued Registered Nurse License
26 Number RN #560519 ("license") to Heather Joy Jackson, also known as Heather Jackson,
27 Heather Ortner, and Heather Miller ("Respondent"). The license will expire on August 31, 2009,
28 unless renewed.

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3. Section 2750 of the Business and Professions Code (“Code”) provides, in

4. Code section 2764 provides, in pertinent part, that the expiration of a

5. Code section 118, subdivision (b), provides that the suspension,

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1 (a) Obtain or possess in violation of law, or prescribe, or
2 except as directed by a licensed physician and surgeon, dentist, or
3 podiatrist administer to himself or herself, or furnish or administer to
4 another, any controlled substance as defined in Division 10 (commencing
5 with Section 11000) of the Health and Safety Code or any dangerous drug
6 or dangerous device as defined in Section 4022.

7 (b) Use any controlled substance as defined in Division 10
8 (commencing with Section 11000) of the Health and Safety Code, or any
9 dangerous drug or dangerous device as defined in Section 4022, or
10 alcoholic beverages, to an extent or in a manner dangerous or injurious to
11 himself or herself, any other person, or the public or the extent that such
12 use impairs his or her ability to conduct with safety to the public the
13 practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving the
15 prescription, consumption, or self-administration of any of the substances
16 described in subdivisions (a) and (b) of this section, or the possession of,
17 or falsification of a record pertaining to, the substances described in
18 subdivision (a) of this section, in which event the record of the conviction
19 is conclusive evidence thereof.

20 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
21 unintelligible entries in any hospital, patient, or other record pertaining to
22 the substances described in subdivision (a) of this section.

23 8. Code section 4060 states, in pertinent part:

24 No person shall possess any controlled substance, except that
25 furnished to a person upon the prescription of a physician, dentist,
26 podiatrist, optometrist, or veterinarian, or furnished pursuant to a drug
27 order issued by a certified nurse-midwife . . . , a nurse practitioner . . . , or
28 a physician assistant, or a pharmacist. . . .

9. Health and Safety Code Section 11173, subdivision (a), provides that no
person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
the administration of or prescription for controlled substances, (1) by fraud, deceit,
misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

REGULATORY PROVISION

10. Title 16, California Code of Regulations, section 1443, states:

As used in Section 2761 of the code, 'incompetence' means
the lack of possession of or the failure to exercise that degree of
learning, skill, care and experience ordinarily possessed and
exercised by a competent registered nurse as described in section
1443.5.

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1 **COST RECOVERY**

2 11. Code section 125.3 provides, in pertinent part, that the Board may request
3 the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 12. **DRUGS**

7 "Cannabis," also known as **Marijuana**, is a Schedule I controlled substance as
8 designated by Health and Safety Code section 11054, subdivision (d)(13).

9 "Dilaudid," a brand name for Hydromorphone, is a Schedule II controlled
10 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

11 "Vicodin," a compound consisting of 5 mg. Hydrocodone Bitartrate, also
12 known as Dihydrocodeinone, and 500 mg Acetaminophen per tablet, is a Schedule III controlled
13 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(February 5, 2007 Criminal Conviction for June 2005 Procurement of Controlled**
16 **Substances by Fraud, Deceit, Misrepresentation Subterfuge and Concealment)**

17 13. Respondent is subject to disciplinary action under Code section 2761,
18 subdivision (f), in that on or about February 5, 2007, in the Superior Court of California, County
19 of Orange, in the case entitled, *People of the State of California v. Heather Joy Jackson, aka*
20 *Heather Ortner* (Super. Ct. Orange County, 2006, Case No. 06SF0406 MA), Respondent was
21 convicted by the court on her plea of guilty of violating Health and Safety Code section 11173,
22 subdivision (a) (Obtaining a Controlled Substance by Fraud, to wit: Dilaudid), a misdemeanor.
23 The circumstances of the crime are that on or about June 1, 2005, Respondent did unlawfully and
24 did procure and attempt to procure the administration of and prescription for said controlled
25 substance by fraud, deceit, misrepresentation, subterfuge, and concealment of a material fact.
26 Said crime is substantially related to the qualifications, functions and duties of a registered nurse.

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Respondent made grossly incorrect or grossly inconsistent entries in hospital and/or patient records in the following respects:

Patient 1

a. On May 31, 2005, at 2200 hours, Respondent withdrew one 2 mg. injection of Dilaudid, a controlled substance, from the Pyxis¹ machine for this patient when the physician's order was for 1 mg. of Dilaudid. At 2130 hours, Respondent charted the administration of 1 mg. of Dilaudid in the patient's Emergency Record. However, Respondent failed to chart the wastage or otherwise account for the disposition of the remaining 1 mg. of Dilaudid in any patient or hospital record

Patient 2

b. On May 31, 2005, at 2355 hours, Respondent withdrew one 2 mg. injection of Dilaudid, a controlled substance, from the Pyxis machine when there was no physician's order therefor. Respondent failed to chart the administration or wastage or otherwise account for the disposition of the 2 mg. of Dilaudid in any patient or hospital record

Patient 3

c. On June 1, 2005, at 0330 hours, Respondent withdrew one 2 mg. injection of Dilaudid, a controlled substance, from the Pyxis machine without a physician's order therefor. Furthermore, Respondent withdrew the Dilaudid approximately one hour and fifteen minutes after the patient was discharged from the hospital. Respondent failed to chart the administration or wastage or otherwise account for the disposition of the 2 mg. of Dilaudid in any patient or hospital record.

Centinella Freeman Hospital

18. Between July 10, 2005, and July 23, 2005, while on duty as a registered nurse assigned to the Emergency Room at Centinella Freeman Hospital in Ingelwood, California,

1. Pyxis is a trade name for the automated single-unit dose medication dispensing system that records information, including the patient name, physician orders, date and time the medication was withdrawn, and the name of the individual who withdrew the drug.

1 Respondent made grossly incorrect or grossly inconsistent entries in hospital and/or patient
2 records in the following respects:

3 **Patient 1**

4 d. On July 14, 2005 at 2130 hours, Respondent withdrew one 2 mg. injection
5 of Dilaudid, a controlled substance, from the Controlled Substance Administration Record for
6 this patient. Respondent failed to chart the administration of the 2 mg. of Dilaudid in the
7 Emergency Department Patient Care Record. Furthermore, Respondent failed to chart any
8 patient assessment in the Emergency Supplemental Nurses Notes, as required.

9 e. On July 15, 2005, at 0520 hours, Respondent withdrew one 2 mg.
10 injection of Dilaudid, a controlled substance, from the Controlled Substance Administration
11 Record for this patient, when there was only a physician's order for 1 mg. of Dilaudid.
12 Furthermore, Respondent charted the administration of 2 mgs. of Dilaudid as given in the
13 Controlled Substance Administration Record. However, at 0515 hours, Respondent only charted
14 1 mg. as given in the Emergency Record Supplemental Nurse Notes. Also, Respondent failed to
15 chart any patient assessment in the Emergency Supplemental Nurses Notes, as required.

16 **Patient 2**

17 f. On July 10, 2005, at 1935 hours, Respondent withdrew one 4 mg.
18 injection of Morphine, at 1955 hours, Respondent withdrew a .25 mg. injection of Demerol, and
19 at 2045 hours, Respondent withdrew one 2 mg. injection of Dilaudid, controlled substances,
20 from the Controlled Substance Administration Record for this patient. However, Respondent
21 failed to chart any patient assessment in the Emergency Supplement Nurses Notes, as required.

22 g. On July 11, 2005, at 0500 and 0130 hours, Respondent withdrew, each
23 time, one 2 mg. injection of Dilaudid, a controlled substance, from the Controlled Substance
24 Administration Record for this patient. However, Respondent failed to chart any patient
25 assessment in the Emergency Supplemental Nurses Notes, as required.

26 **Patient 3**

27 h. On July 18, 2005, at 2030 and 2340 hours, and on July 19, 2005, at
28 0445 hours, each time, Respondent withdrew one 2 mg. injection of Dilaudid from the

Emergency Record Substance Administration Record for this patient, when there was a one time only physician's order for this patient. Respondent failed to chart any patient assessment in the Emergency Supplemental Nurses Notes, as required. Also, Respondent obtained 2 mgs. of Dilaudid in excess of the physician's order for this patient.

FIFTH CAUSE FOR DISCIPLINE

(Incompetence)

19. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, in that while employed as registered nurse, Respondent was incompetent in her duties, as defined in California Code of Regulations, section 1443.5, as set forth in paragraphs 17 and 18, above.

PRAYER

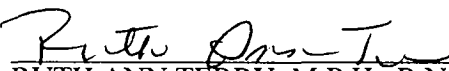
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN #560519 issued to Heather Joy Jackson, also known as Heather Jackson, Heather Ortner, and Heather Miller;

2. Ordering Heather Joy Jackson, also known as Heather Jackson, Heather Ortner, and Heather Miller to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 2/3/09


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant